

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suede G. Kelly.

Adrian Energy Associates, LLC
Cadillac Renewable Energy, LLC
Genesee Power Station, LP
Grayling Generating Station, LP
Hillman Power Company, LLC
T.E.S Filer City Station, LP
Viking Energy of Lincoln, Inc.
Viking Energy of McBain, Inc.

Docket No. EL05-85-001

v.

Michigan Public Service Commission
Commissioner J. Peter Lark
Commissioner Robert B. Nelson
Commissioner Laura Chapelle

ORDER ON REQUEST FOR RECONSIDERATION

(Issued July 26, 2005)

1. On June 30, the Michigan Public Service Commission (MPSC) filed a pleading styled as a request for rehearing of the Commission's Notice of Intent Not to Act issued in this proceeding on June 1, 2005.¹ In the June 1 Notice, we declined to initiate an enforcement action under section 210(h)(2)(A) of the Public Utility Regulatory Policies Act of 1978 (PURPA)² against the MPSC.

¹ 111 FERC ¶ 61,324 (2005) (June 1 Notice).

² 16 U.S.C. § 824a-3 (2000).

Discussion

Procedural Matters

2. Because this proceeding arises under section 210(h) of PURPA, formal rehearing does not lie, either on a mandatory or a discretionary basis.³ Thus, while the MPSC has styled its pleading as a request for rehearing, we will treat it, in our discretion, as a request for reconsideration.

Request for Reconsideration

3. The MPSC explains that although it has no quarrel with the Commission's June 1 Notice, it requests that the Commission clarify that it did not intend to offer a substantive opinion on the question whether complainants properly framed a complaint with respect to MPSC's implementation of PURPA.

4. We will grant MPSC's request. The June 1 Notice treated the complaint in this proceeding as a petition for enforcement under section 210(h) of PURPA. The Commission declined to initiate an enforcement action. The June 1 Notice was simply a statement that the Commission would not initiate the requested enforcement proceeding and did not constitute a ruling on the merits of any issue raised in the proceeding.

The Commission orders:

The MPSC's request for reconsideration is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

³ See *Southern California Edison Co.*, 71 FERC ¶ 61,090 at 61,305 (1995); *New York State Electric & Gas Corp.*, 72 FERC ¶ 61,067 at 61,340 (1995).